

To: Montana Public Defender Commission

From: Central Staff
Office of the Public Defender

EXHIBIT 1

Subject: Proposed Training Proficiency Standard

Date: July 31, 2006

Note: The following new paragraph 5. (¶ 5) is proposed for insertion into the "Standards for Counsel" at Part VI, ¶ 1, following ¶ 4 (at page 18).¹

5. Demonstrated proficiency in lieu of training.

a. In lieu of the described hours of training in specific fields of practice referenced at REPRESENTATION STANDARDS FOR APPELLATE ADVOCACY at ¶ I-1; REPRESENTATION STANDARDS FOR POSTCONVICTION PROCEEDINGS at ¶ I-1; STANDARDS FOR REPRESENTATION OF YOUTH IN YOUTH COURT PROCEEDINGS at ¶ 1-1; REPRESENTATION OF A RESPONDENT IN A PROCEEDING FOR INVOLUNTARY COMMITMENT – MENTAL ILLNESS at ¶ 1-2; REPRESENTATION OF A MINOR WHO IS VOLUNTARILY COMMITTED TO A MENTAL HEALTH FACILITY UNDER §5321112, MCA, at ¶ I-2; REPRESENTATION OF PARENTS IN DEPENDENT/NEGLECT CASES at ¶ I-2; REPRESENTATION OF A RESPONDENT IN A GUARDIANSHIP OR CONSERVATORSHIP PROCEEDING at ¶ I-2; REPRESENTATION OF PERSONS IN A PROCEEDING TO DETERMINE PARENTAGE UNDER THE UNIFORM PARENTAGE ACT (§406119, MCA) at ¶ I-2; REPRESENTATION OF PARENTS OR A GUARDIAN IN A PROCEEDING FOR THE INVOLUNTARY COMMITMENT OF A DEVELOPMENTALLY DISABLED PERSON at ¶ I -1; and REPRESENTATION OF A RESPONDENT IN A PROCEEDING FOR INVOLUNTARY COMMITMENT (ALCOHOLISM) at ¶ I-2, an attorney may be deemed to be compliant with the relevant training standards if:

- i. The attorney demonstrates proficiency in the specific field of practice;
- ii. The attorney completes an equivalency evaluation by an evaluating official from the Office of the Public Defender.the OPD; and
- iii. The attorney is certified by the OPD, following evaluation, as being "compliant with current training standards."

¹ Reference is to the version of the standards posted on-line at www.publicdefender.mt.gov as of 7/28/06..

b. For purposes of evaluating and certifying compliance with training standards, the following individuals are recognized as “evaluating officials” for OPD:

- i. the Chief Public Defender,
- ii. the Training Coordinator,
- iii. the Conflict Coordinator (for conflict contract attorneys), and
- iv. such Regional Deputy Public Defenders as are specifically appointed as “evaluating officials” by the Chief Public Defender,

c. “Demonstrating proficiency in the specific field of practice” means:

- i. the attorney provides the OPD with written evidence of case experience in the specific field of practice within the preceding 12 months; and
- ii. the attorney
- iii. has been observed in court by an OPD evaluating official.

d. For purposes of this requirement, the following are identified as “specific fields of practice:”

- i. Representing defendants in criminal cases in Montana state courts, including sentence review;
- ii. Representing respondents facing involuntary commitment by Montana state courts on grounds of mental illness;
- iii. Representing respondents facing involuntary commitment by Montana state courts on grounds of developmental disability;
- iv. Representing juveniles in youth court proceedings in Montana state courts;
- v. Representing parents in dependency and neglect cases in Montana state courts;
- vi. Representing wards in guardianship and conservatorship cases in Montana state courts;
- vii. Representing minors in Montana state court proceedings who are voluntarily committed to a mental health facility;
- viii. Representing individuals facing involuntary commitment (alcohol) by Montana state courts;
- ix. Representing individuals in Montana state courts in proceedings to determine parentage under the Uniform Parentage Act;
- x. Cultural competency;
- xi. Appellate advocacy; and
- xii. Post conviction practice

e. An attorney deemed “compliant with training standards” in one or more specific fields of practice shall still complete training requirements in any specific field(s) in which the attorney has not been deemed “compliant with training standards” in order to be assigned cases in such other field(s).